

## REMARKS

### I. APPLICANTS RESPONSE TO THE EXAMINER'S GROUNDS OF REJECTION

A. Walker and Basch do not teach or suggest the claim limitations of Claims 1-8.

Independent Claim 1 requires a computer-implemented method of automatically evaluating a financial account applicant for a financial institution including the act of generating a score for the applicant based on the credit bureau data and the account information.

The Examiner indicates on page 3 of the Examiner's Answer that Walker does not teach the step of generating a score for the applicant based on the credit bureau data and the account information. The Examiner further indicates on the same page that "Basch teaches the step of generating a score for the applicant based on the credit bureau data and the account information ... . Basch considers credit bureau data (See Basch Column 7 lines 64-66) and account information (See Basch Column 7 lines 15-29) in generating a score."

Applicants respectfully disagree with the Examiner regarding the teachings of Basch. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984); M.P.E.P. § 2141.02.

Applicants have previously pointed out that Basch teaches away from including credit bureau data because "credit bureau data typically pertains only to account data, e.g., account types, account limits, and historical payment information." Basch, col. 2, lines 18-20. In addition, Basch states "credit bureaus do not have the ability to ascertain transaction patterns to warn account issuers of potential financial risks." *Id.* at lines 33-35. According to Basch, the FRPS system is attempting to warn account issuers of potential financial risks based on current data from scoreable transactions, rather than utilizing historical data. Accordingly, there would be no need to consider historical data from a credit bureau to generate a financial risk score.

As pointed out by the Examiner, Basch mentions that "credit bureau data, although not public in the sense that they are freely available, may also be received." *Id.*, col. 7, lines 64-65. To put this statement into context, Basch indicates that public record data is entered into FRPS to authenticate scoreable transactions and to create a predictive model. *Id.* at lines 44-48. The predictive models are generated based on public records and are used to score the scoreable transactions, which are defined at column 5, lines 8-16. The following paragraph in column 5 indicates that credit bureau data cannot be included as a scoreable transaction because

[u]nlike prior art risk prediction techniques which typically employ only historical payment data for financial risk assessment purposes, the present invention advantageously takes advantage of the immediacy of scoreable transactions in assessing financial risks. Since scoreable transactions more accurately reflect the current financial risk level of a particular account and/or account holder than historical payment data, the use of scoreable transactions in assessing financial risk advantageously enables account issuers to timely receive financial risk scores based on events that impact financial risk rather than on data which are updated only monthly or per billing cycle.

Id., col. 5, lines 17-29.

The scoreable transactions are scored against predictive model(s) within FRPS 100 to generate financial risk scores and/or financial risk alerts for the account issuers. Col. 6, lines 58-61. The credit bureau data is one source of data used to create the predictive model(s) and/or to authenticate scoreable transactions. If credit bureau data is a scoreable transaction, it would seem odd that the credit bureau data would be used to authenticate itself or to compare the credit bureau data to a predictive model that itself includes the credit bureau data.

To further support Applicants' argument that credit bureau data cannot be included as a scoreable transaction, Basch, consistent with the recited paragraph above, states

The data kept by credit bureaus is significantly dated since data from the various account issuers is typically not updated with the credit bureaus until after the end of each billing cycle (which may be, for example, monthly or quarterly). Accordingly, the credit bureaus typically do not have accurate or adequate data pertaining to the credit performance of a particular account holder in between reporting periods. Since credit bureau scores are not based on financial transaction data, a credit bureau would not be able to, for example, warn account issuers that certain accounts and/or account holders are at risk based on the recent transactions.

Id., col. 2, lines 21-32.

For at least the reasons discussed above, Basch does not teach or suggest, among other things, the act of generating a score for the applicant based on the credit bureau data and the account information.

The Examiner has also failed to establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, the Examiner must provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. The requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge

generally available to one of ordinary skill in the art and not from Applicants' disclosure. The Examiner can only establish a *prima facie* case of obviousness by pointing out some objective teaching in the prior art references themselves that would lead one of ordinary skill in the art to combine the relevant teachings and the references.

The Examiner merely states that "it would have been obvious to one with ordinary skill in the art at the time of the current invention to include these steps to the disclosure of Walker. The combination of the disclosures taken as a whole suggests that Financial Institutions would have benefited [sic] from the early warnings about the risks associated with opening an account." Examiner's Answer, page 4.

The Examiner has not identified in the prior art a suggestion to modify the Walker system to include the FRPS system of Basch. In Walker, there is no suggestion for the use of scoreable transaction data. The Walker system uses historical data and conducts a step-by-step process (debt burden verification, maximum debt burden offer) by assigning various codes to each of the steps. The Walker system does not mention the desirability of utilizing current transaction data or comparing the data to predictive models or combining account information with any of the steps. Because the system in Walker and the system in Basch utilize very different processes for analyzing data, adding data from such a different system would most likely require undue experimentation to modify the process just to accommodate other data. For these and other reasons, Walker and Basch, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 1. Accordingly, independent Claim 1 is allowable.

Dependent Claims 2-8 depend from independent Claim 1 and are allowable for the same and other reasons.

B. Walker and Basch do not teach or suggest the claim limitations of dependent Claim 40.

Claim 40 depends from Claim 1 and is allowable for at least the reasons Claim 1 is allowable. Dependent Claim 40 further specifies that the score is a numerical score. Walker discloses a system that assigns alpha response codes to certain data. The system of Walker does not teach or suggest generating a numerical score.

Basch does not cure the deficiencies of Walker. Basch does not indicate that the generated score is numerical. For these and other reasons, Walker and Basch do not teach or suggest the additional subject matter defined by Claim 40.

C. Walker and Basch do not teach or suggest the claim limitations of Claims 9 and 26-32.

Independent Claim 9 requires a computer-readable medium storing computer-readable instructions for evaluating a financial account applicant. The instructions direct the computer to perform the act of generating a score for the applicant based on the credit bureau data and the account information.

The Examiner indicates on page 3 of the Examiner's Answer that Walker does not teach the step of generating a score for the applicant based on the credit bureau data and the account information. The Examiner further indicates on the same page that "Basch teaches the step of generating a score for the applicant based on the credit bureau data and the account information . . . . Basch considers credit bureau data (See Basch Column 7 lines 64-66) and account information (See Basch Column 7 lines 15-29) in generating a score."

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As pointed out by the Examiner, Basch mentions that "credit bureau data, although not public in the sense that they are freely available, may also be received." *Id.*, col. 7, lines 64-65. To put this statement into context, Basch indicates that public record data is entered into FRPS to authenticate scoreable transactions and to create a predictive model. *Id.* at lines 44-48. The predictive models are generated based on public records and are used to score the scoreable transactions, which are defined at column 5, lines 8-16. The following paragraph in column 5 indicates that credit bureau data cannot be included as a scoreable transaction because

[u]nlike prior art risk prediction techniques which typically employ only historical payment data for financial risk assessment purposes, the present invention advantageously takes advantage of the immediacy of scoreable transactions in

assessing financial risks. Since scoreable transactions more accurately reflect the current financial risk level of a particular account and/or account holder than historical payment data, the use of scoreable transactions in assessing financial risk advantageously enables account issuers to timely receive financial risk scores based on events that impact financial risk rather than on data which are updated only monthly or per billing cycle.

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To further support Applicants' argument that credit bureau data cannot be included as a scoreable transaction, Basch, consistent with the recited paragraph above, states

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For at least the reasons discussed above, Basch does not teach or suggest, among other things, the act of generating a score for the applicant based on the credit bureau data and the account information.

The Examiner has also failed to establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, the Examiner must provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. The requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from Applicants' disclosure. The Examiner can only establish a *prima facie* case of obviousness by pointing out some objective

teaching in the prior art references themselves that would lead one of ordinary skill in the art to combine the relevant teachings and the references.

The Examiner merely states that "it would have been obvious to one with ordinary skill in the art at the time of the current invention to include these steps to the disclosure of Walker. The combination of the disclosures taken as a whole suggests that Financial Institutions would have benefited [sic] from the early warnings about the risks associated with opening an account." Examiner's Answer, page 4.

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For these and other reasons, Walker and Basch, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 9. Accordingly, independent Claim 9 is allowable.

Dependent Claims 26-32 depend from independent Claim 9 and are allowable for the same and other reasons.

## II. APPLICANTS RESPONSE TO THE EXAMINER'S RESPONSE TO [APPLICANTS] ARGUMENT

The Examiner indicates, on page 6 of the Examiner's Answer, that "it is amply clear, from the portions of Basch cited above, to one of ordinary skill in the art that the score generated is based on the credit bureau data and the account information."

Applicants respectfully disagree. Applicants comment below on each of the sections cited by the Examiner:

Column 5, lines 11-16: This section lists examples of scoreable transactions. Credit bureau data is not included in the list.

Column 5, lines 21-29 recites "Unlike prior art risk prediction techniques which typically employ only historical payment data for financial risk assessment purposes, the present invention advantageously takes advantage of the immediacy of scoreable transactions in

assessing financial risks. Since scoreable transactions more accurately reflect the current financial risk level of a particular account and/or account holder than historical payment data, the use of scoreable transactions in assessing financial risk advantageously enables account issuers to timely receive financial risk scores based on events that impact financial risk rather than on data which are updated only monthly or per billing cycle."

This section confirms that credit bureau data is not a scoreable transaction as credit bureau data only includes "historical payment data" and not immediate or recent transactions.

Column 6, line 64 – Column 8, line 2: This section, although lengthy, focuses on the development of the predictive models and the data that may be used to create the predictive models. The scoreable transactions are scored against the predictive models to determine financial risk. This section does not discuss generating a score based on credit bureau data and account information.

Column 9, lines 24-34: This section indicates that a scoreable transaction is received at the financial risk prediction system and scored against the previously created predictive model to generate financial risk scores for a particular account and/or account holder. There is no indication that credit bureau data is used to generate the score.

Column 7, lines 30-66: This section indicates that data supplied to the financial risk prediction system can be formatted using the well know Associated Credit Bureau's Metro file format to facilitate ease of processing. This section also discusses public record data that can be used to authenticate scoreable transactions and/or to create the predictive models. This section includes a list of public data and states "[c]redit bureau data, although not public in the sense that they are freely available, may also be received." This sentence indicates that credit bureau data can be used to authenticate scoreable transactions and/or to create the predictive models. This section does not discuss generating a score based on credit bureau data and account information.

Column 7, lines 15-29: This section indicates that the financial risk prediction system may periodically receive account data from account issuers and provides a list of account data. Although, not in this section, for context purposes, column 7, lines 38-42 discuss account data being provided to the financial risk prediction system to permit proper authentication of scoreable transactions and/or creation of the predictive models.

With respect to the Examiner's requirement to establish a prima facie case of obviousness, the Examiner states "In this case, both Walker and Basch are concerned with providing a financial institution with a tool for analyzing the financial risk of their customers or potential customers. Hence it would have been obvious to one with ordinary skill in the art at

the time of the current invention to include these steps to the disclosure of Walker. The combination of the disclosures taken as a whole suggests that Financial Institutions would have benefited from the early warnings about the risks associated with opening an account. The motivation to combine provided by the examiner would have been obvious to one of ordinary skill in the art. Further the Basch reference also provides a motivation to combine. For instance; Basch in Column 3 lines 33-48 discloses that prediction models, like the ones disclosed help, in minimizing financial losses to the account issuers by providing timely warning to the account issuers and thereby enabling them to protect outstanding credit lines."

Examiner's Answer, pages 6-7.

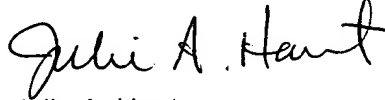
Applicants respectfully disagree. Certainly, any financial institution will use data to decrease its financial risk. However, the type of data and type of processing that each financial institution uses will be different. To say that one financial risk system can be combined with another financial risk system is making a leap of logic. Walker focuses on historical data, such as credit bureau data to determine whether to open a financial account. In contrast, Basch focuses on current or recent data to determine, based on transactional data, whether the account holder is in good standing or is likely to default in the near future. Further, Basch focuses on accounts that are already opened and not on determining whether to open an account for an account applicant. These two financial risk systems utilize different theories, and thus, different systems for reducing financial institution risk. The system of Basch simply cannot be combined with the system of Walker.

In addition, the system and theory of reducing risk of Basch teaches away from being combined with the system and theory of reducing risk of Walker. Furthermore, the teachings of Walker and Basch do not suggest, nor is there motivation, to combine the teachings.

III. CONCLUSION

For these reasons, Applicants respectfully request that the Examiner's rejections be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Julie A. Haut". The signature is fluid and cursive, with the first name "Julie" being more prominent than the last name "Haut".

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